STATE OF KANSAS

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KANSAS DEPARTMENT OF AGRICULTURE

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Sent via facsimile to (202) 456-6027

Office of Science and Technology Policy
Executive Office of the President
Washington, DC 20502

RE: Federal Register Notice: "Proposed Federal Actions to Update Field Test Requirements for Biotechnology Derived Plants and To Establish Early Food Safety Assessments for New Proteins Produced by Such Plants"

Ladies and Gentlemen:

For tens of thousands of years, humans have used selective breeding, a rather crude form of biotechnology, to encourage the development of plants with specific, desirable characteristics. For the past few decades, universities and agricultural seed and chemical companies have studied plant genetics to determine how biology may be used to isolate specific traits to incorporate them into agricultural plants to improve farming methods.

So far, biotechnology has led to crop varieties that resist widely used herbicides, which saves the agricultural industry millions of dollars a year, and breeds that naturally resist pests, which significantly reduces the amount of pesticides used to battle crop-destroying pests. Increased yields attributed to biotechnology contribute to lower food bills and ensure that farmers are able to meet the food demands of a growing world population, while reduced pesticide use lessens the impact farming has on our natural resources.

As more is learned about this technology, its benefits becomes more apparent. To ensure that we achieve all benefits that are possible using biotechnology, it's important that we manage very carefully the test plots for new plant varieties. At stake are the public's confidence in biotechnology and the integrity of the traditional crops grown near test plots.

Your attempt to improve your regulatory procedures for new biotech crops is appreciated, and we welcome the opportunity to comment on proposed federal actions.

When reviewing the Federal Register notice, we made one very important observation. Throughout the document, recommendations are made that federal government agencies "would" perform certain actions or that industry "should" perform certain actions. This approach is not appropriate for regulatory purposes. If the objectives of the regulations are to be met, then recommendations need to be converted into requirements. Well-defined regulations based on statutory authority and developed with a clear vision of their intent are essential.

Industry was provided wide latitude when federal regulations were first developed in the mid-1980's. This latitude may have been provided to encourage industry to develop products and technology, but the current approach must be reevaluated now that the technology and its use have advanced over the last 15 years. It is our understanding, from our interactions with the agricultural industry, that the safeguards designed to reduce the risk of adventitious presence of genetic material could be more strictly enforced.

Following are our specific comments and suggestions:

APPLICATION EVALUATION CONSIDERATIONS

- Ensure that the application evaluation includes a risk assessment that considers the specific site where an environmental release is planned and include an assessment of all cultural considerations from pre-plant to post-harvest to minimize the opportunity for genetic material escape.

- Some industry guidelines, such as some developed by the National Corn Growers Association, are more stringent than the federal requirements. These should be evaluated for their potential to reduce the risk of genetic material spread and, where appropriate, included in federal requirements.

- Consider greater isolation between experimental and production areas.

- Develop criteria for site selection for certain phenologies.

- Consider implementing an application fee to help fund regulatory program operations.

- Consider applicants' past performance. Applicants with poor compliance performance may need additional regulatory requirements to ensure improved compliance.

INSPECTIONS

This area needs improvement. Specific topics for consideration are:

- Ensure compliance with permit conditions.

- Consider contracting with state regulatory agencies to perform inspections.
- Require that all field sites and greenhouse facilities be inspected.
- Improve landowner/farmer/site/industry compliance.
- With landowners, develop common elements for land use contracts.
- Consider using dedicated farm equipment on release sites to minimize unintentional genetic material spread.
- Develop equipment clean-out and disposal procedures.
- Ensure product segregation so product does not enter food supply.
- Using statistical methods, collect and analyze nonbiotech crops from fields near plots for the presence of adventitious genetic material.
- Improve inspection staff training.

ENFORCEMENT

- Evaluate inconsistencies or violations for possible penalty.
- Clearly define penalty procedures.

REEVALUATE ROLE OF STATES

- Recognize that state involvement and/or interest in biotechnology regulatory programs varies widely and work toward a more consistent level of involvement.
- The current federal application process implies close state involvement and partnership with the federal process. This is not always the case, and industry is not always aware of the varying levels of state involvement. States have no mandated responsibilities under the current USDA process. However, in our experience, industry is led to believe that states do have some responsibility.
- A significant problem with the current process is that states receive CBI-deleted applications and are asked to comment on virtually blank paper. This does not help the federal government, nor does it allow the state to make a meaningful review of the application. If the federal government expects states to be involved in analyzing applications, more information must be provided.

CONTINGENCY RESPONSE PLANS

- Develop contingency response plans to be implemented should an escape event occur.

PUBLIC/INDUSTRY/STATE COOPERATOR OUTREACH AND EDUCATION

- Develop and implement a grower training program.
- Conduct training/educational workshops for state cooperators.
- Ensure that industry and the public are informed of the appropriate federal or state jurisdiction.

INTERNATIONAL AND DOMESTIC TRADE ISSUES

- Work with appropriate federal trade agencies to minimize, or at least harmonize, requirements for biotechnology derived products.
- Ensure that international requirements are based on risk and supported by good science.

Thank you for the opportunity to comment. Please feel free to contact me if you have questions, or if need any of these points clarified.

Sincerely,

Jamie Clover Adams

Jamie Clover Adams
Kansas Secretary of Agriculture

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